

JAN 24 2007

A BILL FOR AN ACT

RELATING TO TAXATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1

PART I

2

SECTION 1. The purpose of this part is to improve the
3 organizational framework of the statutes relating to tax
4 provisions concerning motion pictures, digital media, and film
5 production. This part is intended to simplify the statutory
6 structure through recodification and the renaming of certain
7 provisions, where necessary, and not to effect any substantive
8 changes to the current tax provisions, except for the amount of
9 the motion picture, digital media, and film production tax
10 credit allowed. In particular, the sunset provisions for the
11 performing arts investment tax credit and the tax credit for
12 performing arts research activities remain the same as in
13 current law - December 31, 2010.

14

It is time for Hawaii to take full advantage of its natural
15 constituency with the countries of the Pacific rim and the
16 rising tide of global popular culture in all its forms



1 (including video games, animation, and indigenous films)
2 leveraging Hawaii's inherent strengths.

3 Digital entertainment, in the form of computer animated
4 films and video games, not only dominates the entertainment
5 business today (e.g., top box office hits like *Finding Nemo* and
6 *Happy Feet*), but it is a globally-distributed economy.
7 Technology means that companies can grow where people want to
8 live, not where they have to work. Today's biggest hits come
9 from outside Hollywood – from Emeryville (Pixar), Australia and
10 New Zealand (*Happy Feet* and *Lord of the Rings*), and upstate New
11 York (*Ice Age*). The \$25 billion video game industry is based
12 wherever the talent is; not where the historic infrastructure
13 is. In the competition for artistic talent, Hawaii offers the
14 perfect place to raise a family and the perfect lifestyle for
15 the artists in the creative digital field.

16 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
17 amended by adding a new part to be appropriately designated and
18 to read as follows:

19 "PART . MOTION PICTURE, DIGITAL MEDIA, AND FILM PRODUCTION

20 §235-A Performing arts royalties derived from patents,
21 copyrights, or trade secrets excluded from gross income. (a)

22 In addition to the exclusions in section 235-7, there shall be



1 excluded from gross income, adjusted gross income, and taxable
2 income, amounts received by an individual or a qualified
3 business as royalties and other income derived from any patents,
4 copyrights, and trade secrets:

5 (1) Owned by the individual or qualified business; and

6 (2) Developed and arising out of a qualified business.

7 (b) This exclusion shall extend to:

8 (1) The authors of performing arts products, or any parts
9 thereof, without regard to the application of the
10 work-for-hire doctrine under United States copyright
11 law;

12 (2) The authors of performing arts products, or any parts
13 thereof, under the work-for-hire doctrine under United
14 States copyright law; and

15 (3) The assignors, licensors, and licensees of any
16 copyright rights in performing arts products, or any
17 parts thereof.

18 (c) For the purposes of this section:

19 "Performing arts products" means:

20 (1) Audio files, video files, audiovideo files, computer
21 animation, and other entertainment products perceived
22 by or through the operation of a computer; and



1 (2) Commercial television and film products for sale or
2 license, and reuse or residual fee payments from these
3 products.

4 "Qualified business" means a business engaged in producing
5 performing arts products that conducts more than fifty per cent
6 of its activities in qualified research.

7 "Qualified research" means:

8 (1) The same as in section 41(d) of the Internal Revenue
9 Code; and

10 (2) Performing arts products.

11 **§235-B Performing arts investment tax credit.** (a) There
12 shall be allowed to each taxpayer subject to the taxes imposed
13 by this chapter a performing arts investment tax credit that
14 shall be deductible from the taxpayer's net income tax
15 liability, if any, imposed by this chapter for the taxable year
16 in which the investment was made and the following four years
17 provided the credit is properly claimed. The tax credit shall
18 be as follows:

19 (1) In the year the investment was made, thirty-five per
20 cent;

21 (2) In the first year following the year in which the
22 investment was made, twenty-five per cent;



1 (3) In the second year following the investment, twenty
2 per cent;

3 (4) In the third year following the investment, ten per
4 cent; and

5 (5) In the fourth year following the investment, ten per
6 cent;

7 of the investment made by the taxpayer in each qualified
8 business, up to a maximum allowed credit in the year the
9 investment was made, \$700,000; in the first year following the
10 year in which the investment was made, \$500,000; in the second
11 year following the year in which the investment was made,
12 \$400,000; in the third year following the year in which the
13 investment was made, \$200,000; and in the fourth year following
14 the year in which the investment was made, \$200,000.

15 (b) The credit allowed under this section shall be claimed
16 against the net income tax liability for the taxable year. For
17 the purpose of this section, "net income tax liability" means
18 net income tax liability reduced by all other credits allowed
19 under this chapter.

20 (c) If the tax credit under this section exceeds the
21 taxpayer's income tax liability for any of the five years that
22 the credit is taken, the excess of the tax credit over liability



1 may be used as a credit against the taxpayer's income tax
2 liability in subsequent years until exhausted. Every claim,
3 including amended claims, for a tax credit under this section
4 shall be filed on or before the end of the twelfth month
5 following the close of the taxable year for which the credit may
6 be claimed. Failure to comply with the foregoing provision
7 shall constitute a waiver of the right to claim the credit.

8 (d) If at the close of any taxable year in the five year
9 period in subsection (a):

10 (1) The business no longer qualifies as a qualified
11 business;

12 (2) The business or an interest in the business has been
13 sold by the taxpayer investing in the qualified
14 business; or

15 (3) The taxpayer has withdrawn the taxpayer's investment
16 wholly or partially from the qualified business;

17 the credit claimed under this section shall be recaptured. The
18 recapture shall be equal to ten per cent of the amount of the
19 total tax credit claimed under this section in the preceding two
20 taxable years. The amount of the credit recaptured shall apply
21 only to the investment in the particular qualified business that
22 meets the requirements of paragraph (1), (2), or (3). The



1 recapture provisions of this subsection shall not apply to a tax
2 credit claimed for a qualified business that does not fall
3 within the provisions of paragraph (1), (2), or (3). The amount
4 of the recaptured tax credit determined under this subsection
5 shall be added to the taxpayer's tax liability for the taxable
6 year in which the recapture occurs under this subsection.

7 (e) Every taxpayer, before March 31 of each year in which
8 an investment in a qualified business was made in the previous
9 taxable year, shall submit a written, certified statement to the
10 director of taxation identifying:

- 11 (1) Qualified investments, if any, expended in the
12 previous taxable year;
- 13 (2) The amount of tax credits claimed pursuant to this
14 section, if any, in the previous taxable year; and
- 15 (3) The number of total hires versus the number of local
16 hires by category (i.e., department) and by country.

17 The department of taxation shall use the information from the
18 statements submitted each year under this subsection to prepare
19 a report published by April 1 of each year presenting the
20 information received under this subsection. The information
21 shall be presented in the aggregate and shall be available to
22 the public.



- 1 (f) The department shall:
 - 2 (1) Maintain records of the names and addresses of the
 - 3 taxpayers claiming the credits under this section and
 - 4 the total amount of the qualified investment costs
 - 5 upon which the tax credit is based;
 - 6 (2) Verify the nature and amount of the qualifying
 - 7 investments;
 - 8 (3) Total all qualifying and cumulative investments that
 - 9 the department certifies; and
 - 10 (4) Certify the amount of the tax credit for each taxable
 - 11 year and cumulative amount of the tax credit.

12 Upon each determination made under this subsection, the
13 department shall issue a certificate to the taxpayer verifying
14 information submitted to the department, including qualifying
15 investment amounts, the credit amount certified for each taxable
16 year, and the cumulative amount of the tax credit during the
17 credit period. The taxpayer shall file the certificate with the
18 taxpayer's tax return with the department.

19 The director of taxation may assess and collect a fee to
20 offset the costs of certifying tax credits claims under this
21 section. All fees collected under this section shall be



1 deposited into the tax administration special fund established
2 under section 235-20.5.

3 (g) As used in this section:

4 "Investment tax credit allocation ratio" means, with
5 respect to a taxpayer that has made an investment in a qualified
6 business, the ratio of:

7 (1) The amount of the credit under this section that is,
8 or is to be, received by or allocated to the taxpayer
9 over the life of the investment, as a result of the
10 investment; to

11 (2) The amount of the investment in the qualified
12 business.

13 "Qualified business" means a business engaged in producing
14 performing arts products, employing or owning capital or
15 property, or maintaining an office, in this State; provided
16 that:

17 (1) More than fifty per cent of its total business
18 activities are qualified research; and provided
19 further that the business conducts more than seventy-
20 five per cent of its qualified research in this State;
21 or



1 (2) More than seventy-five per cent of its gross income is
2 derived from qualified research; and provided further
3 that this income is received from:

4 (A) Products sold from, manufactured in, or produced
5 in this State; or

6 (B) Services performed in this State.

7 "Qualified research" means the same as defined in section
8 235-A.

9 "Performing arts products" means the same as defined in
10 section 235-A.

11 (h) Common law principles, including the doctrine of
12 economic substance and business purpose, shall apply to any
13 investment. There exists a presumption that a transaction
14 satisfies the doctrine of economic substance and business
15 purpose to the extent that the special allocation of the
16 production arts tax credit has an investment tax credit ratio of
17 1.5 or less of credit for every dollar invested.

18 Transactions for which an investment tax credit allocation
19 ratio greater than 1.5 but not more than 2.0 of credit for every
20 dollar invested and claimed may be reviewed by the department
21 for applicable doctrines of economic substance and business
22 purpose.



1 Businesses claiming a tax credit for transactions with
2 investment tax credit allocation ratios greater than 2.0 of
3 credit for every dollar invested shall substantiate economic
4 merit and business purpose consistent with this section.

5 (i) Persons eligible for a tax credit under section 235-D
6 may claim a tax credit under this section but not under section
7 235-110.9. Persons not eligible for a tax credit under 235-D
8 shall not claim any tax credit under this section. Any person
9 that has:

- 10 (1) Claimed the tax credit under section 235-110.9; and
11 (2) Not exhausted the right to claim the tax credit for
12 the five-year period provided thereunder,
13 shall be eligible to continue to claim the tax credit, without
14 reduction or requalification, for the remainder of the five-year
15 period pursuant to this section.

16 (j) This section shall not apply to taxable years
17 beginning after December 31, 2010.

18 **§235-C Tax credit for performing arts research activities.**

19 (a) Section 41 (with respect to the credit for increasing
20 research activities) and section 280C(c) (with respect to
21 certain expenses for which the credit for increasing research
22 activities are allowable) of the Internal Revenue Code shall be



1 operative for the purposes of this chapter as provided in this
2 section; except that references to the base amount shall not
3 apply and credit for all qualified research expenses may be
4 taken without regard to the amount of expenses for previous
5 years. If section 41 of the Internal Revenue Code is repealed
6 or terminated prior to January 1, 2011, its provisions shall
7 remain in effect for purposes of the income tax law of the State
8 as modified by this section, as provided for in subsection (j).

9 (b) All references to Internal Revenue Code sections
10 within sections 41 and 280C(c) of the Internal Revenue Code
11 shall be operative for purposes of this section.

12 (c) There shall be allowed to each qualified business
13 subject to the tax imposed by this chapter an income tax credit
14 for qualified research activities equal to the credit for
15 research activities provided by section 41 of the Internal
16 Revenue Code and as modified by this section. The credit shall
17 be deductible from the taxpayer's net income tax liability, if
18 any, imposed by this chapter for the taxable year in which the
19 credit is properly claimed.

20 (d) Every qualified business, before March 31 of each year
21 in which qualified research and development activity was



1 conducted in the previous taxable year, shall submit a written,
2 certified statement to the director of taxation identifying:

- 3 (1) Qualified expenditures, if any, expended in the
4 previous taxable year; and
- 5 (2) The amount of tax credits claimed pursuant to this
6 section, if any, in the previous taxable year.

7 The department of taxation shall use the information from the
8 statements submitted each year under this subsection to prepare
9 a report published by April 1 of each year presenting the
10 information received under this subsection. The information
11 shall be presented in the aggregate and shall be available to
12 the public.

13 (e) The department shall:

- 14 (1) Maintain records of the names and addresses of the
15 taxpayers claiming the credits under this section and
16 the total amount of the qualified research and
17 development activity costs upon which the tax credit
18 is based;
- 19 (2) Verify the nature and amount of the qualifying costs
20 or expenditures;
- 21 (3) Total all qualifying and cumulative costs or
22 expenditures that the department certifies; and



1 (4) Certify the amount of the tax credit for each taxable
2 year and cumulative amount of the tax credit.

3 Upon each determination made under this subsection, the
4 department shall issue a certificate to the taxpayer verifying
5 information submitted to the department, including the
6 qualifying costs or expenditure amounts, the credit amount
7 certified for each taxable year, and the cumulative amount of
8 the tax credit during the credit period. The taxpayer shall
9 file the certificate with the taxpayer's tax return with the
10 department.

11 The director of taxation may assess and collect a fee to
12 offset the costs of certifying tax credit claims under this
13 section. All fees collected under this section shall be
14 deposited into the tax administration special fund established
15 under section 235-20.5.

16 (f) As used in this section:

17 "Basic research" under section 41(e) of the Internal
18 Revenue Code shall not include research conducted outside of the
19 State.

20 "Qualified business" means the same as in section 235-B.



1 "Qualified research" under section 41(d)(1) of the Internal
2 Revenue Code shall not include research conducted outside of the
3 State.

4 (g) If the tax credit for qualified performing arts
5 research activities claimed by a taxpayer exceeds the amount of
6 income tax payment due from the taxpayer, the excess of the tax
7 credit over payments due shall be refunded to the taxpayer;
8 provided that no refund on account of the tax credit allowed by
9 this section shall be made for amounts less than \$1.

10 (h) All claims for a tax credit under this section shall
11 be filed on or before the end of the twelfth month following the
12 close of the taxable year for which the credit may be claimed.
13 Failure to properly claim the credit shall constitute a waiver
14 of the right to claim the credit.

15 (i) The director of taxation may adopt any rules under
16 chapter 91 and forms necessary to carry out this section.

17 (j) Persons eligible to claim a tax credit under section
18 235-D may claim a tax credit under this section but not under
19 section 235-110.91. Persons not eligible for a tax credit under
20 section 235-D shall not claim a tax credit under this section.
21 Any person that has:

22 (1) Claimed the tax credit under section 235-110.91; and



1 (2) Not exhausted the right to claim the tax credit
2 provided thereunder,
3 shall be eligible to continue to claim the tax credit, without
4 reduction or requalification, pursuant to this section.

5 (k) This section shall not apply to taxable years
6 beginning after December 31, 2010."

7 SECTION 3. Section 235-7.3, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§235-7.3 Royalties derived from patents, copyrights, or**
10 **trade secrets excluded from gross income.** (a) In addition to
11 the exclusions in section 235-7, there shall be excluded from
12 gross income, adjusted gross income, and taxable income, amounts
13 received by an individual or a qualified high technology
14 business as royalties and other income derived from any patents,
15 copyrights, and trade secrets:

16 (1) Owned by the individual or qualified high technology
17 business; and

18 (2) Developed and arising out of a qualified high
19 technology business.

20 ~~[(b) With respect to performing arts products, this~~
21 ~~exclusion shall extend to:~~



1 ~~(1) The authors of performing arts products, or any parts~~
2 ~~thereof, without regard to the application of the~~
3 ~~work for hire doctrine under United States copyright~~
4 ~~law;~~

5 ~~(2) The authors of performing arts products, or any parts~~
6 ~~thereof, under the work for hire doctrine under United~~
7 ~~States copyright law; and~~

8 ~~(3) The assignors, licensors, and licensees of any~~
9 ~~copyright rights in performing arts products, or any~~
10 ~~parts thereof.~~

11 ~~(e)]~~ (b) For the purposes of this section:

12 ~~["Performing arts products" means:~~

13 ~~(1) Audio files, video files, audiovideo files, computer~~
14 ~~animation, and other entertainment products perceived~~
15 ~~by or through the operation of a computer; and~~

16 ~~(2) Commercial television and film products for sale or~~
17 ~~license, and reuse or residual fee payments from these~~
18 ~~products.]~~

19 "Qualified high technology business" means a business that
20 conducts more than fifty per cent of its activities in qualified
21 research.

22 "Qualified research" means:



- 1 (1) The same as in section 41(d) of the Internal Revenue
- 2 Code;
- 3 (2) The development and design of computer software for
- 4 ultimate commercial sale, lease, license or to be
- 5 otherwise marketed, for economic consideration. With
- 6 respect to the software's development and design, the
- 7 business shall have substantial control and retain
- 8 substantial rights to the resulting intellectual
- 9 property;
- 10 (3) Biotechnology;
- 11 ~~[(4) Performing arts products;~~
- 12 ~~(5)]~~ (4) Sensor and optic technologies;
- 13 ~~[(6)]~~ (5) Ocean sciences;
- 14 ~~[(7)]~~ (6) Astronomy; or
- 15 ~~[(8)]~~ (7) Nonfossil fuel energy-related technology."

16 SECTION 4. Section 235-17, Hawaii Revised Statutes, is
 17 amended as follows:

18 1. By renumbering the section, inserting it into the new
 19 part of chapter 235, Hawaii Revised Statutes, established under
 20 section 2 of this Act, and amending subsection (a) to read:

21 "~~§235-17]~~ §235-D Motion picture, digital media, and film
 22 production income tax credit. (a) Any law to the contrary



1 notwithstanding, there shall be allowed to each taxpayer subject
2 to the taxes imposed by this chapter, an income tax credit which
3 shall be deductible from the taxpayer's net income tax
4 liability, if any, imposed by this chapter for the taxable year
5 in which the credit is properly claimed. The amount of the
6 credit shall be:

7 (1) [~~Fifteen~~] Thirty per cent of the qualified production
8 costs incurred by a qualified production in any county
9 of the State with a population of over seven hundred
10 thousand; or

11 (2) [~~Twenty~~] Forty per cent of the qualified production
12 costs incurred by a qualified production in any county
13 of the State with a population of seven hundred
14 thousand or less.

15 A qualified production occurring in more than one county may
16 prorate its expenditures based upon the amounts spent in each
17 county, if the population bases differ enough to change the
18 percentage of tax credit.

19 In the case of a partnership, S corporation, estate, or
20 trust, the tax credit allowable is for qualified production
21 costs incurred by the entity for the taxable year. The cost
22 upon which the tax credit is computed shall be determined at the



1 entity level. Distribution and share of credit shall be
2 determined by rule.

3 If a deduction is taken under section 179 (with respect to
4 election to expense depreciable business assets) of the Internal
5 Revenue Code of 1986, as amended, no tax credit shall be allowed
6 for those costs for which the deduction is taken.

7 The basis for eligible property for depreciation of
8 accelerated cost recovery system purposes for state income taxes
9 shall be reduced by the amount of credit allowable and claimed."

10 2. By amending subsection (h) to read:

11 "(h) Every taxpayer claiming a tax credit under this
12 section for a qualified production shall, no later than ninety
13 days following the end of each taxable year in which qualified
14 production costs were expended, submit a written, sworn
15 statement to the department of business, economic development,
16 and tourism, identifying:

17 (1) All qualified production costs as provided by
18 subsection (a), if any, incurred in the previous
19 taxable year;

20 (2) The amount of tax credits claimed pursuant to this
21 section, if any, in the previous taxable year; and



1 Just as Act 221, Session Laws of Hawaii 2001, and Act 215,
2 Session Laws of Hawaii 2003, were intended to provide start-up
3 financing for high-technology start-ups in the early stages of
4 development, the Hawaii film and television development special
5 fund will provide seed financing that independent and budding
6 filmmakers can use to leverage non-state funding sources. Since
7 many of these filmmakers' projects would not be eligible for the
8 film/digital media production credits, the special fund takes on
9 special significance for independent filmmakers.

10 SECTION 6. Section 201-112, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~[+]§201-112[+]~~ **Hawaii television and film development**
13 **board.** (a) There is established the Hawaii television and film
14 development board. The board shall be attached to the
15 department of business, economic development, and tourism for
16 administrative purposes only. The board shall administer the
17 grant [~~and venture capital investment~~] programs and the Hawaii
18 television and film development special fund established under
19 this part. The board shall also [~~assess and consider~~] further
20 the overall viability and development of the television and film
21 industries and make recommendations to appropriate state or
22 county agencies.



1 (b) The board shall be composed of [~~nine~~] eleven members,
2 [~~four~~] six of whom shall be appointed by the governor pursuant
3 to section 26-34, and all of whom shall serve four-year
4 staggered terms. [~~One~~] Two of the governor's appointments shall
5 be made from a list of nominees submitted by the president of
6 the senate [~~and another appointment~~], two shall be made from a
7 list of nominees submitted by the speaker of the house of
8 representatives[~~-~~], and one appointment shall be a current
9 member of the University of Hawaii's faculty or administration.
10 The [~~four~~] six appointed members shall possess a current working
11 knowledge of the film, television, or entertainment industry.
12 The director of business, economic development, and tourism, and
13 the chairs of the four county film commissions or [~~its~~] their
14 equivalent, shall serve as ex officio voting members, who may be
15 represented on the board by designees.

16 The chairperson and vice chairperson of the board shall be
17 selected by the board by majority vote. [~~Five~~] Seven members
18 shall constitute a quorum, whose affirmative vote shall be
19 necessary for all actions by the board. The members shall serve
20 without compensation but shall be reimbursed for expenses,
21 including travel expenses, necessary for the performance of
22 their duties.



1 (c) The film industry branch development manager shall
2 serve as the executive secretary of the board.

3 (d) The board may establish subcommittees to administer
4 specific programs and activities for which the board has
5 responsibility, including but not limited to the disbursement of
6 grants and loans. The subcommittees shall be composed of board
7 members and selected by the board by majority vote. The
8 subcommittees may make recommendations to the board.

9 (e) The board shall convene only if there is a balance in
10 the special fund established under section 201-113 or if any
11 grant, loan, or investment program of the board remains
12 outstanding. In the absence of either of these conditions, the
13 board, by its own decision, may choose not to convene.

14 [~~(d)~~] (f) The board may adopt rules pursuant to chapter 91
15 to effectuate the purposes of this part."

16 SECTION 7. Section 201-113, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "~~[§]201-113[§]~~ **Hawaii television and film development**
19 **special fund.** (a) There is established in the state treasury
20 the Hawaii television and film development special fund into
21 which shall be deposited:

22 (1) Appropriations by the legislature;



- 1 (2) Donations and contributions made by private
2 individuals or organizations for deposit into the
3 fund; and
4 (3) Grants provided by governmental agencies or any other
5 source[~~and~~
6 ~~(4) Any profits or other amounts received from venture~~
7 ~~capital investments~~], including those related to
8 creative media and production.

9 (b) The fund shall be used by the board to assist in, and
10 provide incentives for, the production of eligible Hawaii
11 projects that are in compliance with criteria and standards
12 established by the board in accordance with rules adopted by the
13 board pursuant to chapter 91. In particular, the board shall
14 adopt rules to provide for the implementation of [~~the following~~
15 ~~programs~~]

16 ~~(1)~~ A] a grant program[-] through which funds shall be
17 disbursed for the furtherance of a sustainable local
18 television and film industry and exposure and
19 publicity for the State. The board, by majority vote,
20 shall select a subcommittee composed of five board
21 members to review grant applications and recommend
22 grant recipients to the board. Two of the



1 subcommittee members shall be from the government and
2 three shall be from the private sector. All
3 subcommittee members shall declare any personal
4 relationships or affiliations that may affect their
5 ability to make objective recommendations. The board
6 shall adopt rules pursuant to chapter 91 to provide
7 conditions and qualifications for grants.

8 Applications for grants shall be made to the board and
9 shall contain such information as the board shall
10 require by rules adopted pursuant to chapter 91. At a
11 minimum, the applicant shall agree to the following
12 conditions:

13 [~~(A)~~] (1) The grant shall be used exclusively for
14 eligible Hawaii projects;

15 [~~(B)~~] (2) The applicant shall have applied for or
16 received all applicable licenses and permits;

17 [~~(C)~~] (3) The applicant shall comply with applicable
18 federal and state laws prohibiting discrimination
19 against any person on the basis of race, color,
20 national origin, religion, creed, sex, age, or
21 physical handicap;



- 1 ~~(D)~~ (4) The applicant shall comply with other
2 requirements as the board may prescribe;
- 3 ~~(E)~~ (5) All activities undertaken with funds
4 received shall comply with all applicable
5 federal, state, and county statutes and
6 ordinances;
- 7 ~~(F)~~ (6) The applicant shall indemnify and save
8 harmless the State of Hawaii and its officers,
9 agents, and employees from and against any and
10 all claims arising out of or resulting from
11 activities carried out or projects undertaken
12 with funds provided hereunder, and procure
13 sufficient insurance to provide this
14 indemnification if requested to do so by the
15 department;
- 16 ~~(G)~~ (7) The applicant shall make available to the
17 board all records the applicant may have relating
18 to the project, to allow the board to monitor the
19 applicant's compliance with the purpose of this
20 chapter; and
- 21 ~~(H)~~ (8) The applicant, to the satisfaction of the
22 board, shall establish that sufficient funds are



1 available for the completion of the project for
2 the purpose for which the grant is awarded[~~and~~
3 ~~(2) A venture capital program. The board shall adopt~~
4 ~~rules pursuant to chapter 91 to provide conditions and~~
5 ~~qualifications for venture capital investments in~~
6 ~~eligible Hawaii projects. The program may include a~~
7 ~~written agreement between the borrower and the board,~~
8 ~~as the representative of the State, that as~~
9 ~~consideration for the venture capital investment made~~
10 ~~under this part, the borrower shall share any~~
11 ~~royalties, licenses, titles, rights, or any other~~
12 ~~monetary benefits that may accrue to the borrower~~
13 ~~pursuant to terms and conditions established by the~~
14 ~~board by rule pursuant to chapter 91. Venture capital~~
15 ~~investments may be made on such terms and conditions~~
16 ~~as the board shall determine to be reasonable,~~
17 ~~appropriate, and consistent with the purposes and~~
18 ~~objectives of this part].~~

19 (c) Up to ten per cent of any amounts in the special fund
20 may be used by the board to support the operations of the board
21 and the administration of the special fund and any grant or loan
22 program established by the board."



1 SECTION 8. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$1,000,000, or so
3 much thereof as may be necessary for fiscal year 2007-2008, and
4 the same sum, or so much thereof as may be necessary for fiscal
5 year 2008-2009, to be deposited into the Hawaii television and
6 film development special fund under section 201-113, Hawaii
7 Revised Statutes.

8 SECTION 9. There is appropriated out of the Hawaii
9 television and film development special fund of the State of
10 Hawaii the sum of \$1,000,000, or so much thereof as may be
11 necessary for fiscal year 2007-2008, and the same sum, or so
12 much thereof as may be necessary for fiscal year 2008-2009, for
13 the purposes of this part.

14 The sums appropriated shall be expended by the department
15 of business, economic development, and tourism for the purposes
16 of this part.

17 **PART III**

18 SECTION 10. In codifying the new sections added by
19 sections 2 and 4 of this Act, the revisor of statutes shall
20 substitute appropriate section numbers for the letters used in
21 designating the new sections in this Act.





1 SECTION 11. Statutory material to be repealed is bracketed
 2 and stricken. New statutory material is underscored.
 3 SECTION 12. This Act, upon its approval, shall apply to
 4 taxable years beginning after December 31, 2006; provided that
 5 part II shall take effect on July 1, 2007.
 6

INTRODUCED BY:

Ant Fuernberg

Will Engler

Don Perata

Greg K. Ford

Jim Giam

Thomas Mann

Scott

[Signature]

Alvin Solomon

Burrows, Kelly

Cheney & [Signature]

Cheney & [Signature]

Cheney & [Signature]

Cheney & [Signature]

Cheney & [Signature]

Report Title:

Taxation; Motion Picture, Digital Media, Film Production; Hawaii Television and Film Board; Membership; Appropriation

Description:

Recodifies and renames existing motion picture, digital media, and film production tax provisions. Increases membership of the Hawaii television and film board; enables the board to delegate certain administrative functions to subcommittees; authorizes the board to not have to meet if no money is in its special fund or no grants are being managed; and appropriates funds to the board's special fund for grants programs.

